

# PAUL HASTINGS

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November 29, 2011

## VIA FACSIMILE

Chambers of Hon. Cathy Seibel  
United States District Judge  
The Hon. Charles L. Brieant Jr.  
Federal Building and Courthouse  
300 Quarropas Street  
White Plains, New York 10601-4150

Re: *Schlenger v. Fidelity Employer Servs. Co. LLC, et al.*  
No. 09-CV-3986 (CS)

Your Honor:

We represent defendant International Business Machines Corporation ("IBM") in this matter.

We write to respectfully request that Your Honor dismiss this case with prejudice. On April 19, 2011, Your Honor extended Plaintiff's deadline to file a Second Amended Complaint from April 21, 2011 to August 21, 2011. On September 23, 2011, Your Honor extended Plaintiff's deadline yet again, to October 31, 2011. On November 2, 2011, Your Honor again extended Plaintiff's deadline, to November 14, 2011 if Plaintiff proceeded *pro se*, or to November 28, 2011 if Plaintiff obtained counsel. In the November 2 Order, Your Honor stated "No further extensions." Subsequently, two attorneys filed Notices of Appearance on Plaintiff's behalf (Lisa Ruth Lipman on November 11 and Gail I. Auster on November 17).

Despite the fact that Plaintiff now is represented by two attorneys, she failed to file a Second Amended Complaint within the November 28, 2011 deadline.

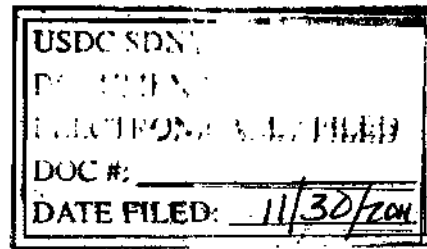
We respectfully request that Plaintiff's claims against IBM be dismissed with prejudice. Plaintiff, who is herself an attorney, has had approximately nine months to file a Second Amended Complaint. IBM is entitled to finality with respect to claims that are now many years old, and which were long ago dismissed by the Court for being unsustainable as pled.

Respectfully submitted,



Allan S. Bloom  
of PAUL HASTINGS LLP

cc: Lisa Ruth Lipman  
Gail I. Auster  
Attorneys for Plaintiff



The above order is hereby VACATED. Due to an error in the Clerk's Office, the SAE was not timely docketed but I am informed that it was received on 11/28/11. The parties shall appear for a conference on: 1-19-2012 @ 9:30 AM

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So Ordered.

  
Cathy Seibel, U.S.D.J.

Dated: 12/1/11

Application Granted / Denied *Case is dismissed with prejudice.*  
So Ordered.

  
Cathy Seibel, U.S.D.J.

Dated: 11/29/11

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